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45 La. Ann. 71, 12 South. 6; *Lund v. Wheaton Mill Co.*, 50 Minn. 36; *Clark v. German Security Bank*, 61 Miss. 611; *Wilson v. St. Louis Ry. Co.*, 108 Mo. 588, 18 South. 286; *Broadway Bank v. McElrath*, 13 N. J. Eq. 24; *De Comeau v. Guild Farm Oil Co.*, 3 Daly (N. Y.) 218; *Beckwith v. Burrough*, 13 R. I. 294; *Cornick v. Richards*, 3 Lea (Tenn.) 1; *James v. James*, 81 Tex. 373, 16 S. W. 1087; *Hazard v. Nat. Exch. Bank*, 26 Fed. 94. These courts proceed on the theory that an attaching creditor acquires no higher rights by levying on shares standing on the books of the corporation in the name of his debtor than his debtor had in them at the time of the levy. Statutes expressly requiring transfers of shares to be recorded on the books of the corporation, as in the principal case, are usually construed as intended for the protection of the corporation, in paying dividends and allowing the stock to be voted, and not as public recording acts for the protection of the general public. 2 COOK, CORP., Ed. 6, § 487; 2 THOMPSON, CORP., § 2411.

CRIMINAL PROCEDURE—SEALED VERDICT—SEPARATION OF JURY.—Defendant was charged with assault with intent to kill. After trial, the jury retired upon order of the court that they might separate after signing and sealing a verdict and placing it in the hands of the sheriff. This was done, the sheriff gave the sealed verdict to the clerk of the court and when the jury was called, they agreed orally to the original verdict as written. *Held*, that the separation of the jury, after the sealed verdict was rendered, did not vitiate the verdict given in open court and was not ground for a new trial. *People v. Duffek* (1910), — Mich. —, 128 N. W. 245.

Michigan has followed the rule of *Commonwealth v. Carrington*, 116 Mass. 37, which holds that the common law practice of refusing to allow the jury to separate until verdict rendered in open court does not apply in trials of felonies. A sealed verdict may be taken which when ratified after separation is the true verdict. In capital cases the common law rule is strictly followed in all states. Michigan by statute, has adopted it in murder cases. In trials of misdemeanors the jury may separate after a sealed verdict has been taken. See *Koch v. State*, 126 Wis. 470; *Pehlman v. State*, 115 Ind. 131; *Jackson v. State*, 45 Ga. 198; *Hechter v. State*, 94 Md. 429. In *Farley v. People*, 138 Ill. 97, 27 N. E. 927 in trial of a felony it was held that the common law rule applied in Illinois and that after the jury separated they had no power to render a verdict.

EMINENT DOMAIN — STREETS — POWER TO CONDEMN LAND REQUIRED FOR RAILROAD PURPOSES.—The city of Portland, Oregon, has the general power to appropriate and condemn private property for street purposes. In an action to enjoin the city from enforcing an order of the council, opening, widening and extending a certain street, it is *held* that under its authority the city had no power to condemn a part of a railroad right of way to construct a street longitudinally along the same, especially where there was no provision for joint use. *Portland Ry., Light & Power Co. v. City of Portland* (1910), — C. C. D. Ore. —, 181 Fed. 632.

A municipal corporation cannot exercise the power of eminent domain unless expressly authorized by the legislature. *Gasaway v. City of Seattle*,

52 Wash. 444. Though given only general powers, by necessary implication a city may extend streets across railway tracks, and railroads necessarily may cross streets. *St. Louis & S. F. R. Co. v. City of Fayetteville*, 75 Ark. 534; *Little Miami, etc. R. Co. v. City of Dayton*, 23 Ohio St. 510; *N. J. Southern R. Co. v. Long Branch Com'rs.*, 39 N. J. L. 28. But there is no implied authority to condemn absolutely and take exclusive possession of land already used for a public purpose. *Albany Northern R. Co. v. Brownell*, 24 N. Y. 345; *Boston & A. R. Co. v. Cambridge*, 166 Mass. 224. Such powers must be conferred by legislative grant. *St. Paul Union Depot Co. v. City of St. Paul*, 30 Minn. 359. And to that effect is the decision in the principal case. The court, however, apparently was of the opinion that had the city provided properly for the joint use, the appropriation would not have been inconsistent with the previous public use. *Oregon Short Line v. Postal Tel. & C. Co.*, 111 Fed. 842.

EVIDENCE—PRESUMPTIONS AND BURDEN OF PROOF IN CASE OF CORPORATION CHARGED WITH CRIME.—The Northern Pacific Railroad Company, a corporation, was prosecuted under §§ 1741, 1742, Revised Codes of Montana, which made it a criminal offence, punishable by a fine, for any railroad company doing business in Montana to require any employee to work for more than sixteen consecutive hours out of twenty-four. The evidence produced upon the part of the state was entirely circumstantial and by no means convincing. Upon conviction the corporation appealed on the ground that the evidence would not support a conviction, except by marshalling every presumption deducible from the evidence in favor of defendant's guilt. The Supreme Court of Montana reversed the case, holding that a corporation charged with crime occupies the same relative position as a natural person so charged, and that the same presumption of innocence and the same burden of proving the crime beyond a reasonable doubt exist as in the prosecution of a natural person. *State v. Northern Pac. Ry. Co.* (1910), — Mont. —, 111 Pac. 141.

The principal case seems to be the first in which the question of the position of a corporation as defendant in a criminal case as compared with that of a natural person similarly situated, has been directly raised and adjudicated. Upon the precise proposition which forms the basis of the court's decision there seems to be a dearth of authority directly in point, the court sustaining itself by citing cases in which the defendant was a natural person, and reasoning by analogy therefrom that a corporation charged with crime occupies the same position as a natural person in regard to the presumption of innocence and the burden of proof. While the decision is undoubtedly sound upon principle and rests upon grounds which apparently have hitherto been taken for granted in prosecutions of corporations, yet it is apparent that some of the considerations which lay at the basis of the common law rule, requiring that every person be presumed innocent until proved guilty, and that the burden of proving the existence of the crime beyond a reasonable doubt should rest upon the state, do not exist, at least to some degree, in cases in which the defendant is a corporation. The rule just stated took its rise from the zealous regard which the common law uniformly